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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,179	01/09/2004	Oscar R. Campas	6109.002	8478

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/754,179

Applicant(s)

CAMPAS, OSCAR R.

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### *Amendment*

1. This office action is in response to applicant's amendment dated 6-8-05 and this action is final.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-8, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by JP Patent No. 9-266748.

Referring to claims 1, 10 and 18, the Japanese patent discloses an apparatus for keeping birds away from a structure comprising, two quadrilateral planar members – at 15,21, joined together along a single horizontal edge – proximate 18, so as to form an upside down v-shaped member having an angle between respective planar surfaces of the quadrilateral planar members – see for example figures 1-2, the two quadrilateral planar members – at 15, having exterior light reflective surfaces, and a support member – at 13,17, connecting the structure and an interior surface of the upside down v-shaped member in spaced apart relation – see for example figures

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1-2, wherein a light trapping cavity is formed between the interior surface of the upside down v-shaped member and the support member – see for example figures 1-2. The Japanese patent further discloses the each of the two quadrilateral planar members further include a substantially horizontal end – at 14,16 or proximate 18, extending outwardly therefrom – see for example figures 1-2.

Referring to claims 2 and 11, the Japanese patent discloses the exterior light-reflective surfaces are mirrors – see the English abstract.

Referring to claims 3 and 12, the Japanese patent discloses the support member includes a baseplate – at 13.

Referring to claims 4 and 13, the Japanese patent discloses the support member includes means for tracking a source of light – see at 1-8 in figures 1-2.

Referring to claims 7 and 16, the Japanese patent discloses the support member and the interior surface reflect light – see for example figures 1-2 and the English abstract.

Referring to claims 8 and 17, the Japanese patent discloses the baseplate – at 13, reflects light – see for example figures 1-2 and the English abstract.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claim 4 above, and further in view of U.S. Patent No. 4,144,832 to Dahl or U.S. Patent No. 4,243,018 to Hubbard.

Referring to claims 5 and 14, the Japanese patent does not disclose the means for tracking a source of light comprises two pins in fixed relationship to the structure and two slotted apertures in the support member, such that the apparatus is freely supported by engaging the pins in the apertures and is pivotally adjustable between alternative relative positions of the pins in the apertures. Dahl and Hubbard do disclose the means for tracking a source of light comprises two pins – at 16,18 of Dahl and – 48c of Hubbard in fixed relationship to the structure and two slotted apertures – at 8,9 and 17 of Dahl and – at 50c of Hubbard in the support member, such that the apparatus is freely supported by engaging the pins in the apertures and is pivotally adjustable between alternative relative positions of the pins in the apertures – see for example figures 1-4 of Dahl and figures 3-4 of Hubbard. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the means for tracking a source of light including two pins located inside slotted apertures in the support member of Dahl or Hubbard, so as to allow for the apparatus to be adjustable in that the reflector can be repositioned based on the position of the sun in the sky so as to maintain a maximum intensity of the reflected light.

Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claim 4 above, and further in view of Hubbard.

Referring to claims 6 and 15, the Japanese patent does not disclose the means for tracking a source of light comprises a gear and cog wheel arrangement. Hubbard does disclose the means

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for tracking a source of light comprises a gear and cogwheel arrangement – see for example at 72,74 in figure 7. Therefore it would have been obvious to take the device of the Japanese patent and add the gear and cogwheel arrangement of Hubbard, so as to allow the device to be connected to a drive source so that the apparatus can be moved easily without requiring great physical effort.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as applied to claim 1 above, and further in view of U.S. Patent No. 697,072 to Davis. The Japanese patent does not disclose the angle is about 90 degrees. Davis does disclose the angle is about 90 degrees – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent and add the angle being about 90 degrees of Davis, so as to allow for a greater area of reflected light thus making the device more effective.

### *Response to Arguments*

4. Regarding claims 1-4, 7-8, 10-13 and 18, the Japanese patent 9-266748 does disclose two quadrilateral planar members – at any two of items 15,21, joined together along a single horizontal edge – at any edge of item 18 as seen in figures 1-2. Items 15,21 of the Japanese patent are quadrilateral members as seen in figures 1-2, where the top edges of items 15,21 do not form a point which would make them triangles but instead form a flat linear top so that the cover – at 18 can fit securely onto the items 15,21 as seen in figures 1-2. Therefore, even though items 15,21, are generally triangular in shape they actually form a trapezoid which is four sided

and thus is a quadrilateral. Further, as seen in figures 1-2 of the Japanese patent the cover member – at 18 connects all four quadrilateral items – at 15,21 to each other and therefore any edge running along the top or bottom of the cover – at 18, which runs in a horizontal direction with respect to the quadrilateral members, connects/joins the quadrilateral members – at 15,21, to one another as seen in figures 1-2.

Further, the Japanese patent discloses a support member – at 13,17, where a light trapping cavity is formed between the interior surface of the support member and the quadrilateral members – at 15,21, as seen in figures 1-2. A cavity is formed below item – 14, which is between item 13 and the quadrilateral members – at 15,21, which allows light to enter in that there is an open space between items 13-14. Alternatively, applicant argues that the cavity between items 14,17 and the quadrilateral members – at 15,21 is a closed cavity, which does not allow light to enter. However, the device – at 1-17, is made of individual components fastened to one another and therefore small gaps can exist where the pieces do not match up perfectly to each other thus allowing light to enter the area between the support member – at 14,17, and the quadrilateral members – at 15,21.

Regarding the 35 U.S.C. 103(a) rejections to claims 5-6, 9 and 14-15 applicant relies upon the same arguments to claims 1-4, 7-8, 10-13 and 18 above and therefore see the response to these arguments in this paragraph of this office action above.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

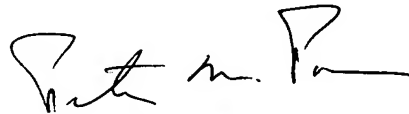


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

8/10/05